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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/677,075	09/29/2000	Gregory J. Kostrzewsky	99RE055	2141

7590 02/26/2002

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EXAMINER

JOYCE, WILLIAM C

ART UNIT	PAPER NUMBER
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3682

DATE MAILED: 02/26/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/677,075

Applicant(s)

KOSTRZEWSKY ET AL

Examiner

William C. Joyce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

This is the first office action in response to the above identified patent application filed on September 29, 2000.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 18, 19, and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The method claims 18, 19, and 21 do not appear to contain method steps. A method claim must define the invention by a series of active method steps, such as providing, allowing, and disposing.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 4-10, 17, 19, 20, and 23-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Holzman (US Patent 4,872,502).

Holzman discloses a gearbox comprising a conductive housing (10,11,23,24), a bearing element disposed within the housing, at least one fan (43,44) mounted to the bearing housing, wherein the fan is adapted to transfer heat from the bearing housing by forced convection.

Referring to column 5, lines 14+, Holzman discloses that the fan may be thermostatically controlled by an adjustable temperature sensor submerged in the lubricant oil sump of the gear drive housing. As illustrated in Figure 5, the fan is controlled by a logic controller having predetermined limits for controlling the operation of the fan.

With respect to the location of the fan on the housing, Applicants' attention is drawn to Figures 2-3. Specifically, Holzman shows the fan positioned adjacent both the oil sump and the bearing elements.

With respect to claims 5 and 6, Holzman discloses that the temperature sensor is submerged in the oil sump. Accordingly, the oil temperature corresponds to the operating temperature of the bearing components, and therefore the output signal of the temperature sensor corresponds to the operating temperature of the bearing members.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claims 11-15 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holzman (US Patent 4,872,502) as applied to claim 8 above, and further in view of known techniques in the art.

Holzman discloses the claimed device except for providing two fans on the housing. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide two fans on the housing, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. Further, it would have been obvious to an engineer in the art at the time the invention was made modify the device of Holzman by providing a second fan on the housing and a second adjustable control circuit to control the fan operation, in order to increase the heat transfer from the housing.

7. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Holzman (US Patent 4,872,502) as applied to claim 8 above, and further in view of Muller (US Patent 4,806,832).

Holzman does not disclose the fan as being configured to operate at variable speeds depending on the output of the temperature sensor, but it was well known in the art to operate a fan at different speeds depending on the cooling requirements of a device. For example, Muller discloses a fan having a control circuit for varying its rotation speed based on a temperature sensor. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the control circuit of

Holzman such that the fan has multiple operating speeds, as taught by Muller, in order to provide adequate cooling of the housing without consuming excessive electricity.

8. Claims 18 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holzman (US Patent 4,872,502) as applied to claim 17 above, and further in view of Roberts (US Patent 3,548,396).

Holzman does not show the temperature sensor disposed adjacent the bearing element, however monitoring the temperature of a bearing element was known in the art. For example, the prior art of Roberts discloses a temperature sensing device positioned adjacent a bearing element for monitoring a bearing from overheating. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide an additional temperature sensor to the gear device of Holzman, positioned adjacent the bearing, as taught by Roberts, in order to ensure the bearing does not overheat during operation.

9. Claims 1-15, 17, 19-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olah (US Patent 2,511,479) in view of Holzman (US Patent 4,872,502).

Olah discloses a gear reduction device having cooling means. Referring to the Figures. Olah shows a bearing housing comprising fins, bearing components (10), and an oil sump (33). Olah does not disclose a fan being attached to the housing to transfer heat from the housing by convection. As described above, the prior art to Holzman

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teaches using a fan connected to a gear reduction housing in order to protect the housing from overheating. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the gear reducer of Olah with the fan and fan operating circuit of Holzman, in order to increase the heat transfer from the housing thereby protecting the gear device from overheating.

With respect to claims 11-15 and 22, Olah does not disclose the gear reduction housing having a pair of fans for transferring heat from the housing, but providing a pair of fans to the housing of Olah is considered an obvious modification based on the teachings of Holzman. It would have been obvious to one of ordinary skill in the art to modify the gear reducer of Olah with a plurality of fans connected to the housing, based on the teaching of Holzman, in order to provide an increased the air flow over the housing thereby increasing the heat transfer of the device. It has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

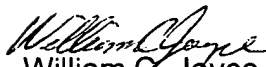
-Note the teaching of mounting a fan to a gear casing of Waldner, Jr. ('384).

-Note the cooling means of Zak ('591) and Kendall ('206).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William C. Joyce whose telephone number is (703) 305-5114. The examiner can normally be reached on Monday - Thursday 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on (703) 308-3668. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

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William C. Joyce
February 14, 2002